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**IN THE HIGH COURT OF BOMBAY AT GOA.
WRIT PETITION NO. 128 OF 2021.**

Shigdha Mayenkar,
27 years, H. No. 18,
Cuxem, Corjuem
Aldona Bardez Goa.

..... Petitioner.

Vs

1. State of Goa
Through Chief Secretary
Secretariat, Alto Porvorim
Bardez Goa
2. Goa University
Through its Registrar
Alto Taleigao - Goa
3. Ms. Dviti Mapari
Department of Biotechnology,
Science Block E, Goa University,
Taleigao Goa
dviti@unigoa.ac.in

.... Respondents.

Mr S. D. Lotlikar, Senior Advocate with Mr Sarvesh Sawant, Advocate
for the petitioner.

Mr Prashil Arolkar, Addl. Govt. Advocate for Respondent no.1.

Ms A. Agni, Senior Advocate with Ms Afrin Harrihar and Mr Junaid
Shaikh, Advocates for Respondent no. 2

Mr Joaquim Godinho, Advocates for Respondent no.3.

**Coram:- BHARATI DANGRE &
NIVEDITA P. MEHTA, JJ.**

Date :- 30th July 2025.

Judgment (*Per Nivedita P. Mehta, J.*)

1. The Petitioner is aggrieved by the arbitrary selection of Respondent No. 3 and the Petitioner's non-selection for the post of Assistant Professor in Biotechnology (OBC) at Goa University (Respondent No. 2). The Petitioner is also aggrieved by the non-selection for the posts of Assistant Professor in Biochemistry (OBC) and Marine Microbiology (OBC), despite being duly qualified and eligible for the same.
2. Succinctly, the case of the Petitioner is that the Petitioner is a meritorious candidate belonging to the Bhandari Naik community, recognised as an Other Backward Class (OBC). She holds a Bachelor's degree in Biotechnology with Distinction and a Master's degree in Biotechnology with First Class from Goa University. She has qualified multiple prestigious national-level examinations, including CSIR-UGC NET-JRF (All India Rank 98) and GATE (All India Rank 861), and has completed research training from the Indian Institute of Science with high distinction. She is also a Ph.D. candidate at Goa University, working in a unique and underrepresented area of microbial biotechnology.
3. The Petitioner has teaching experience both at the undergraduate and postgraduate levels, having served as an Assistant Professor in Dhempe College of Arts and Science and at Goa University. Her teaching portfolio includes full-time faculty duties, guidance of research students, use of ICT in education, and contributions to academic activities, including publications, workshops, and student development programs.

4. Goa University (Respondent No. 2) issued advertisements in 5.12.2019 and 11.5.2020 inviting applications for various posts. The petitioner applied in the category of OBC for the posts of Assistant Professor in Microbiology, Assistant Professor in Marine Science, Assistant Professor in Marine Microbiology, Assistant Professor in Biochemistry and Assistant Professor in Biotechnology. The Petitioner applied to all these posts and was shortlisted and interviewed. However, she was not selected for any of the positions, while Respondent No.3, with a Master's in Microbiology and comparatively having lesser qualifications, was selected for the post of Assistant Professor in Biotechnology.
5. The Petitioner contends that the selection of Respondent No.3 was arbitrary, anti-merit, and discriminatory. Respondent No. 3 lacks national-level qualifications (such as NET/JRF/GATE) and possesses significantly less teaching experience. Moreover, the Petitioner's core qualifications align directly with the Biotechnology post, unlike Respondent No.3's degree in Microbiology. The selection, therefore, violates the statutory criteria and University statutes, particularly Schedule SSA-6, Table II (C), which lays down the evaluation framework.
6. The Petitioner further highlights procedural lapses in the recruitment process. Upon seeking information under the RTI Act, she was denied access to key documents such as merit lists and minutes of meetings. However, through other sources, she came to know that she was awarded only 49 marks, with an unreasonably low score of 6 marks under the "Interview Performance" head, despite previous years' records showing much higher scores for the same post on a

contract basis. No valid explanation was provided for this sudden drop.

7. Additionally, the University has kept vacant the two OBC-reserved posts in Biochemistry and one post in Marine Microbiology, despite having eligible candidates such as the Petitioner. The Petitioner alleges that this non-filling of reserved vacancies is discriminatory and unconstitutional under Article 16 of the Constitution of India. She submits that the Respondents' failure to appoint her or to fill the reserved posts reflects a systemic bias aimed at excluding her.
8. In these circumstances, the Petitioner prays for the quashing of the selection of Respondent No. 3 to the post of Assistant Professor in Biotechnology (OBC) and for her appointment to that post. Alternatively, she seeks an appointment to any of the still-vacant posts of Assistant Professor in Biochemistry (OBC) or Marine Microbiology (OBC). Given that a Ph.D. is now a mandatory qualification post-2021 for regular appointment to university positions, the Petitioner, though currently pursuing Ph.D. would otherwise be rendered ineligible, making the denial of selection arbitrary, unfair, and detrimental to her career prospects.
9. The learned senior counsel Mr Lotlikar, assisted by learned counsel Mr Sawant, submitted that the marks obtained by the candidates, as disclosed through the Right to Information Act, clearly reveal that the marks awarded in the oral interview component are arbitrary and devoid of any discernible or rational basis. The Respondent No.2 has not furnished any criteria or methodology adopted for awarding marks during the interview process, either in the RTI disclosures or in the affidavit filed by Respondent No.3. The absence of such

disclosure demonstrates a lack of transparency in the selection process, which is contrary to the statutory obligations imposed under the relevant Goa University Statutes. In such a scenario, where no objective standards are demonstrated for awarding interview marks, the entire process stands vitiated for being opaque and arbitrary, particularly in a selection governed by public law principles.

10. It is further contended that the Petitioner has been consistently found suitable for appointment on a contractual basis for the very same post of Assistant Professor (OBC category) over multiple academic years. This clearly evidences that the Petitioner possesses the requisite qualifications, competence, and teaching experience necessary for holding the said post. The sudden rejection of her candidature for a regular appointment, despite her demonstrated merit and suitability in earlier years, without assigning any cogent or justifiable reasons, is manifestly arbitrary and violative of Articles 14 and 16 of the Constitution of India.

11. The Petitioner, therefore, asserts that the denial of regular appointment to a duly qualified OBC category candidate, based on a selection process that lacks transparency and objectivity, is not only arbitrary but also undermines the principle of equal opportunity in public employment. The rejection of the Petitioner's candidature must therefore be set aside as being violative of the statutory recruitment framework and the constitutional mandate.

12. The learned senior counsel for the petitioner relied upon the following judgments:

1. *Hemani Malhotra Vs High court of Delhi, AIR 2008 SC 2103.*

2. *Dr. Krushna Chandra Sahu and others Vs State of Orissa and others, (1995) 6 SCC 1.*

13. The learned senior counsel Miss. Agni appearing for the Goa University, assisted by learned counsel Ms Harrihar and Mr Junaid, submits that the selection of Respondent No.3 for the post of Assistant Professor in Biotechnology (OBC) was conducted in accordance with due process by a duly constituted Selection Committee comprising subject experts. The evaluation was based on academic merit, experience, and performance in the interview, as per applicable statutory norms. It is well-established that judicial review of academic selection processes is limited and permissible only in cases of proven illegality, procedural impropriety, or mala fides, none of which has been substantiated by the Petitioner.
14. The Petitioner was duly considered for all relevant posts, including those in Biotechnology, Biochemistry, Microbiology, and Marine Microbiology (OBC). However, the Selection Committee, exercising its academic discretion, did not recommend her for appointment, placing her instead on the waitlist for the Biotechnology post. The appointment of Respondent No. 3 was made based on her securing the highest marks in the selection process. The Petitioner's subjective assessment of her interview performance cannot override the objective evaluation undertaken by the expert body.
15. It is further contended that vacancies for certain posts remain unfilled either due to a lack of suitable candidates or because selected candidates declined the offers. These posts will be re-advertised, and the Petitioner is free to apply afresh.

Allegations that these posts remain unfilled to deliberately exclude the Petitioner are baseless and denied.

16. Alleged violations of Statute SSA-6 and the Right to Information Act are also denied. The University maintains all records of the selection process and has followed appropriate procedures. The Petitioner has not demonstrated any violation of the relevant statutes or established that Respondent No.3 lacked the requisite experience.

17. Finally, the Petitioner has not alleged specific *mala fides* against any individual member of the Selection Committee, nor presented evidence of bias or discrimination. The claims of arbitrary exclusion and violation of Article 16 of the Constitution are therefore untenable. The petition, being devoid of merit, is liable to be dismissed. The learned senior counsel appearing on behalf of Goa University relies on the following judgments in support of her contentions: -

1. ***Moh. Mustafa Vs Union of India and others, (2022)1 SCC 294.***
2. ***The Secretary, All India Shir Shivaji Memorial Society (AISSMS) and ors. (2025) 6 SCC 605.***
3. ***Basavaiah(Dr.) Vs Dr. H. L. Ramesh and others, (2010) 8 SCC 372.***
4. ***Dalpat Abasaheb Solunke etc Vs Dr. B. S. Mahjan etc., AIR 1990 SC 434.***
5. ***Union of India and others vs Bharat Forge Ltd. & Another, (2022) 17 SCC 188.***

18. The learned counsel Mr Godinho, appearing on behalf of Respondent No.3, submitted that the selection of Respondent

No. 3 to the post of Assistant Professor in Biotechnology (OBC) at Goa University was conducted in strict adherence to the applicable statutory provisions, specifically Schedule SSA-6, Table II(C) of the Goa University Statutes. It is contended that Respondent No. 3 fulfilled all the requisite eligibility conditions, including possession of a Master's degree with more than 55% marks and qualification in SET and ASRB-ICAR NET, both being nationally recognised eligibility tests under UGC norms. Respondent No. 3 is a confirmed Ph.D. research scholar at Goa University, having duly cleared the entrance examination and obtained confirmation of registration after evaluation of her first annual progress report. In contrast, the Petitioner was only provisionally registered for Ph.D. at the time of the interview. The Respondent's academic training and research background span both Biotechnology and Microbiology, which are relevant to the department's interdisciplinary focus.

19. It is contended that the Petitioner's emphasis on her years of teaching experience and national-level examination ranks does not entitle her to preferential treatment, as the selection was based on domain knowledge, teaching skills, and research aptitude, assessed during the interview by a duly constituted and competent Selection Committee. Mere teaching duration or claimed research uniqueness does not override the structured evaluation process contemplated under the Statutes.
20. Respondent No.3 specifically denies the Petitioner's claim of superior merit or any procedural irregularity in the selection process. It is submitted that GATE, though a competitive examination, is not recognised by UGC for

appointment to teaching positions and hence holds no statutory weight. Similarly, non-UGC-listed publications or unsubstantiated claims of patent filings cannot be accorded undue academic weightage. The Petitioner's claims are speculative, self-serving, and arise solely out of her dissatisfaction with the outcome of a fair and legally compliant selection process. The Petition, therefore, discloses no ground for judicial interference with the Respondent's appointment. The learned counsel for respondent no.3 relies on the following judgments: -

1. ***Mohd. Mustafa Vs Union of India and others, (2022) 1 SCC 294.***
2. ***The Secretary, All India Shri Shivaji Memorial Society(AISSMS) and ors., (2025) 6 SCC 605.***
3. ***Basavaiah Vs Dr. H. L. Ramesh and others, (2010) 8 SCC 372.***

21. Having considered the submissions advanced by the respective parties, the point that arises for determination is whether the Goa University committed any irregularity in not prescribing or furnishing the criteria or methodology for awarding marks during the interview, and further, whether it erred in not filling the post of Assistant Professor in Marine Microbiology (OBC) and the post of Assistant Professor in Biochemistry (OBC)."

22. The posts advertised by the Goa University to which the Petitioner applied and upon being declared eligible, the Petitioner was called for an interview. However, upon publication of the selection list, the Petitioner's name did not

appear, whereas the name of Respondent No.3, who, according to the Petitioner, possessed qualifications inferior to her own, was included. The Petitioner contends that the Selection Committee failed to duly appreciate her merit and acted with bias in the decision-making process. It is further the Petitioner's case that the benchmark of 50% prescribed by the Selection Committee was never disclosed prior to the interview, and the said information was obtained by the Petitioner only under the Right to Information Act. According to the Petitioner, such non-disclosure of the prescribed benchmark constitutes an irregularity in the selection process, thereby rendering the selection process unfair and arbitrary

23. In response, learned counsel appearing for the Goa University submits that while it is correct that the 50% benchmark was not disclosed, this has been a longstanding internal practice followed by the University over several years. Furthermore, the University contends that none of the candidates who secured less than 50 marks in the interview were selected. It is also submitted that the Petitioner secured 49 out of 50 marks and hence did not meet the internal benchmark set by the selection committee for the interview.

24. It is well settled that the process of selection involves a high degree of discretion and expertise, which lies with the members of the duly constituted selection committee. In this context, reliance is placed on the judgment of the Hon'ble Supreme Court in ***Dalpat Abasaheb Solunke v. Dr. B. S. Mahajan***, (supra), wherein it was held in paragraph 9:

“9.----- It is needless to emphasise that it is not the function of the Court to hear appeals

over the decisions of the Selection Committees and to scrutinize the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The Court has no such expertise. The decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the Constitution of the Committee or its procedure vitiating the selection, or proved mala fides affecting the selection etc. It is not disputed that in the present case the University had constituted the Committee in due compliance with the relevant statutes. The Committee consisted of experts and it selected the candidates after going through all the relevant material before it. In sitting in appeal over the selection so made and in setting it aside on the ground of the so called comparative merits of the candidates as assessed by the Court, the High Court went wrong and exceeded its jurisdiction.”

25. Ordinarily, the recommendations of a Selection Committee are not amenable to judicial interference, save on grounds of *mala fides* or serious violation of statutory provisions. The Court, in the exercise of its power of judicial review, cannot act as an appellate authority to re-assess the

recommendations of the Selection Committee, nor can it examine whether the marks awarded in the viva voce are excessive or commensurate with the candidate's performance. The assessment and evaluation of a candidate's performance before the Selection Committee or Interview Board is a matter best left to the discretion of its members. In the present case, the Selection Committee awarded the Petitioner 49 marks out of 50 marks. It is an admitted position that no candidate who secured less than 50 marks was appointed by the Respondent–University. It is further admitted by the learned counsel appearing for the Goa University that the benchmark of 50% was not communicated to the candidates. However, it is the University's case that such a benchmark has been followed as a matter of practice for several years, and the Selection Board did not consider it inappropriate to continue with the same.

26. It is settled law that those candidates who take part in the selection process without any demur or protest cannot challenge the same after being declared unsuccessful. A candidate cannot approbate or reprobate at the same time. Simply because the result of the selection process is not palatable to the candidate, he or she cannot allege that the process of interview was unfair or that there was some lacuna in the process. The challenge is raised by the Petitioner only after she was declared unsuccessful in the selection process.

27. Additionally, the Petitioner participated in the entire selection process without raising any protest or objection at any stage. It is now well established in law that a candidate who participates in the selection process without demur cannot turn around and challenge the process after being

declared unsuccessful. This principle was reiterated in **Mohammed Mustafa v. Union of India**, (2022) 1 SCC 294 Paragraphs 35 and 36 read thus: -

35. *It is in this context, we have to examine whether the appellants are estopped from challenging the recommendations made by the Empanelment Committee, given the fact that they had taken a calculated chance, and not protested till the selection panel was made public. In our opinion, the ratio in **Madan Lal and Others v. State of Jammu and Kashmir and Others**, (1995)3 SCC 486 would apply in the present case as when a person takes a chance and participates, thereafter he cannot, because the result is unpalatable, turn around to contend that the process was unfair or the selection committee was not properly constituted. This decision, no doubt, pertains to a case where the petitioner had appeared at an open interview; however, the ratio would apply to the present case as the appellant too had taken a calculated chance in spite of the stakes, that too without protest, and then has belatedly raised the plea of bias and prejudice only when he was not recommended. The judgment in **Madanlal** (supra) refers to an earlier decision of this Court in **Om Prakash Shukla v. Akhilesh Kumar Shukla and Others**, (1986 Supp SCC 285) wherein the petitioner who had appeared at an examination without protest was not granted any relief, as he had filed the petition when he*

could not succeed afterwards in the examination. This principle has been reiterated in **Manish Kumar Shahi vs. State of Bihar and Others**,[(2010) 12 SCC 576] and **Ramesh Chandra Shah and Others v. Anil Joshi and Others**. [2013) 11 SCC 309]

36. More appropriate for our case would be an earlier decision in **Dr. G. Sarana v. University of Lucknow and Others**,[(1976) 3 SCC 585] wherein a similar question had come up for consideration before a three-judge Bench of this Court as the petitioner, after having appeared before the selection committee and on his failure to get appointed, had challenged the selection result pleading bias against him by three out of five members of the selection committee. He also challenged the constitution of the committee. Rejecting the challenge, this Court had held:

“15. We do not, however, consider it necessary in the present case to go into the question of the reasonableness of bias or real likelihood of bias as despite the fact that the appellant knew all the relevant facts, he did not before appearing for the interview or at the time of the interview raise even his little finger against the constitution of the Selection Committee. He seems to have voluntarily appeared before the committee and taken a chance of having a favourable recommendation from it. Having done so, it is not now open to him to turn round and question the

*constitution of the committee. This view gains strength from a decision of this Court in **Madan Lal's** case where in more or less similar circumstances, it was held that the failure of the appellant to take the identical plea at the earlier stage of the proceedings created an effective bar of waiver against him. The following observations made therein are worth quoting:*

“It seems clear that the appellant wanted to take a chance to secure a favourable report from the tribunal which was constituted and when he found that he was confronted with an unfavourable report, he adopted the device of raising the present technical point.”

28. It is an admitted position that no prescribed benchmark was notified for awarding marks to candidates called for the interview by the Selection Committee. However, in accordance with its procedural norms, the University applied a benchmark of 50% to be secured by a candidate in the interview. Furthermore, mere selection of a candidate does not confer any vested right to appointment. The Goa University has specifically contended that, upon conclusion of the selection process, the two posts in question were not filled.
29. In view of the above, while we do not find it appropriate to interfere with the selection process already concluded, we are of the opinion that greater transparency in future recruitment processes is necessary. In particular, any

benchmark or cut-off to be applied during the interview or assessment stage must be explicitly mentioned in the advertisement or otherwise duly notified to all candidates in advance. The judgments relied upon by the learned counsel for the Petitioner do not advance the Petitioner's case in the facts and circumstances of the present matter.

30. Consequently, we decline to issue a writ of mandamus directing the Goa University to appoint the Petitioner. However, the Petitioner shall be at liberty to participate in any future selection process undertaken by the University. We expect the Goa University, in all future recruitment exercises, to disclose in clear terms any benchmarks or qualifying criteria that would be applied in the selection process. With these observations, the writ petition stands disposed of.

NIVEDITA P. MEHTA, J. BHARATI DANGRE, J.